

REMARKS

In paragraph 2 of the August 5, 2003, Office Action, the Examiner rejected the listed claims under 35 USC §112 ¶2 "as being incomplete for omitting essential elements and structural cooperative relationships of elements, such omissions amounting to a gap between the necessary elements and structural element and structural connections". However, Applicants assert, the rejection is misplaced. Applicant's claims comply with 35 USC §112 ¶ 1, by "particularly pointing out and distinctly claiming the subject matter", and therefore request the Examiner to withdraw this rejection.

In paragraph 2, the Examiner identified areas of certain claims that he asserts are lacking sufficient specificity by omitting an essential element. In particular, the Examiner indicated:

Claims 7, 84 and 136

There are no means to determine an "operation fault condition."

There is nothing recited which can determine an "operation fault condition," so that a signal will be generated.

Claim 9

It is not understood where the "conditions signals" originate, since there are no means to sense conditions

Claims 26, 126, 139 and 149

The phrase "maintenance condition" is not understood. Does this imply that a maintenance action has begun, but stopped at some point before completion?

There are no means recited to ascertain the condition.

Claims 44, 110 and 148

The claim does not recite how the "operation conditions" are determined.

There are no means recited to determine the "operation conditions."

Claims 47, 100, 105, 117, 122, 128 and 130

There are no sensors or other means to determine "lift conditions."

The claim does not recite how the "lift conditions" are determined.

There are no means to determine the "lift conditions."

Claims 60 and 77

The claim does not recite how a "maintenance condition" is determined.

Claims 107 and 124

The claim does not recite how the "tool conditions" are determined.

There are no means recited to determine the "tool conditions."

Applicants take issue with each of these assertions, disagreeing that an omission of what the Examiner has recited renders the claim as failing to particularly point out and distinctly claim the subject matter. Applicants have, however, amended certain claims identified by the Examiner, as indicated in the amended claims above.

Applicants have not amended claims 9, 47, 100, 105, 117, 122, 128 and 130. Generally stated, each of these claims recite being configured to receive condition signals which are indicative of lift conditions. Claim 9 was rejected based on the condition signals. The other claims were rejected based on lift conditions. Thus, in regard to claim 9, the Examiner did not find any issue with lift conditions. In regard to the other claims, the Examiner did not find any issue with condition signals. Applicants assert that the Examiner's acceptance of both of these terms between these two groups of claims establishes that the rejections are not well founded.

Furthermore, Applicants assert that neither the origination of condition signals nor means to determine the lift conditions are necessary to these claims, which are directed to a configuration which receives such signals.

In regard to claims 26 and 149, the Examiner indicates that "the phrase 'maintenance condition' is not understood". Applicants assert that the phrase "maintenance condition" is not

an unknown, indefinite term. The claim terms are read in light of the specification. At paragraph 108, the application states “[m]aintenance conditions include conditions that call for preventative maintenance and conditions that call for repair maintenance”.

In regard to claim 151, Applicants have amended the claim to correct the typographical omission that led to the rejection.

Thus, Applicants respectfully request withdrawal of the rejections of paragraph 2.

In paragraph 5 of the Office Action, the Examiner rejected the claims listed therein under 35 USC §103(a) as being unpatentable over Saunders USP 6,286,629. The Examiner identifies figure 1 of Saunders as disclosing “a moveable lift engagement structure with a first computer processor 11 which can control the lifting and lowering of the structure 1, and a second computer processor 41 which displays the data which is entered to control the lift. ... Accumulator or processor 41 receives input from sensor 43, which is connected to a sensor (not shown) about the height of the platform. When the platform has reached the desired height, accumulator 41 causes controller 11 to shut off hydraulic pump 12.”

The Examiner did not provide specific reference to which limitations of which claims are not found in Saunders, nor identify another any other reference or assert that knowledge on the part of a person having ordinary skill in the art provide the missing elements. What is certain, though, is that the Examiner’s reliance on 35 USC 103(a) instead of any of the sections under 35 USC §102 establishes that Saunders fails to meet all of the limitations of every claim. Without an explanation of where the missing limitations are found in the prior art and are properly combinable with Saunders to produce a combination that has each and every limitation of each and every claim, the Examiner has failed to establish a prima facie case of obviousness, and the rejection must be withdrawn.

At the end of paragraph 5, the Examiner indicated “[e]lements like ‘tool conditions,’ (sic) lift conditions,’ ‘operation fault conditions,’ etc. were not addressed, because as demonstrated in paragraphs 1 and 2, they were not understood.” Applicants do not understand this comment. The only term which the Examiner indicated in the rejections made in paragraph 2 which was not understood is “maintenance condition”, which Applicants addressed above. The Examiner did

not make any rejections based on "tool conditions", "lift conditions" or "operation fault conditions" not being understood. The rejections were based on the assertions that "[t]here are no means to recited to determine the 'tool conditions.'"; "[t]he claim does not recite how the 'tool conditions' are determined."; "[t]here are no sensors or other means to determine 'lift conditions.'"; "[t]he claim does not recite how the 'lift conditions' are determined."; "[t]here are no means to determine the 'lift conditions.'"; "[t]here are no means to determine an 'operation fault condition.'"; "[t]here is nothing recited which can determine an 'operation fault condition,' so that a signal will be generated.". Additionally, the Examiner's reference to "[e]lements like ... etc." has no meaning. "Etc." could refer to anything.

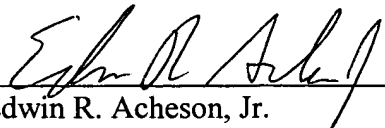
Thus, the Examiner's assertion that certain terms were understood is not supported by the rejections. Thus, all elements of the claims must be considered, within the context of this Office Action, to have been fully considered.

Applicants note the allowed claims and objected to claims. Inasmuch as it is believed that all claims are in condition for allowance, Applicants respectfully request that the application be allowed to issue. Should there be any remaining issues, the Examiner is requested to contact the undersigned to discuss them.

Respectfully submitted,

STEVEN D. GREEN
LARRY D. O'CULL
SARAH A. COX
MICHAEL R. O'CULL
DOUGLAS J. BROWN
CORY J. POWELL

By


Edwin R. Acheson, Jr.
Registration No. 31,808
Attorney for Applicant(s)
FROST BROWN TODD LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202
(513) 651-6708